

[DRAFT COMMITTEE PRINT]

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[Showing the text of H.R. 4701 as Reported by the Subcommittee on Commerce, Trade, and Consumer Protection]

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Sports Agent Respon-
3 sibility and Trust Act”.

4 SEC. 2. DEFINITIONS.

5 As used in this Act, the following definitions apply:

6 (1) AGENCY CONTRACT.—The term “agency
7 contract” means an oral or written agreement in
8 which a student athlete authorizes a person to nego-
9 tiate or solicit on behalf of the student athlete a pro-
10 fessional sports contract or an endorsement contract.

11 (2) ATHLETE AGENT.—The term “athlete
12 agent” means an individual who enters into an agen-
13 cy contract with a student athlete, or directly or in-
14 directly recruits or solicits a student athlete to enter
15 into an agency contract, and does not include a
16 spouse, parent, sibling, grandparent, or guardian of
17 such student athlete, or an individual acting solely
18 on behalf of a professional sports team or profes-
19 sional sports organization.

1 (3) ATHLETIC DIRECTOR.—The term “athletic
2 director” means an individual responsible for admin-
3 istering the athletic program of an educational insti-
4 tution or, in the case that such program is adminis-
5 tered separately, the athletic program for male stu-
6 dents or the athletic program for female students, as
7 appropriate.

8 (4) COMMISSION.—The term “Commission”
9 means the Federal Trade Commission.

10 (5) ENDORSEMENT CONTRACT.—The term “en-
11 dorsement contract” means an agreement under
12 which a student athlete is employed or receives con-
13 sideration for the use by the other party of that in-
14 dividual’s person, name, image, or likeness in the
15 promotion of any product, service, or event.

16 (6) INTERCOLLEGIATE SPORT.—The term
17 “intercollegiate sport” means a sport played at the
18 collegiate level for which eligibility requirements for
19 participation by a student athlete are established by
20 a national association for the promotion or regula-
21 tion of college athletics.

22 (7) PROFESSIONAL SPORTS CONTRACT.—The
23 term “professional sports contract” means an agree-
24 ment under which an individual is employed, or
25 agrees to render services, as a player on a profes-

1 sional sports team, with a professional sports organi-
2 zation, or as a professional athlete.

3 (8) STATE.—The term “State” includes a State
4 of the United States, the District of Columbia, Puer-
5 to Rico, the United States Virgin Islands, or any
6 territory or insular possession subject to the jurisdic-
7 tion of the United States.

8 (9) STUDENT ATHLETE.—The term “student
9 athlete” means an individual who engages in, is eli-
10 gible to engage in, or may be eligible in the future
11 to engage in, any intercollegiate sport. An individual
12 who is permanently ineligible to participate in a par-
13 ticular intercollegiate sport is not a student athlete
14 for purposes of that sport.

15 **SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS**
16 **AND PRACTICES IN CONNECTION WITH THE**
17 **CONTACT BETWEEN AN ATHLETE AGENT AND**
18 **A STUDENT ATHLETE.**

19 (a) CONDUCT PROHIBITED.—It is unlawful for an
20 athlete agent to—

21 (1) directly or indirectly recruit or solicit a stu-
22 dent athlete to enter into an agency contract, by—
23 (A) giving any false or misleading informa-
24 tion or making a false promise or representa-
25 tion; or

1 (B) providing anything of value to a stu-
2 dent athlete or anyone associated with the stu-
3 dent athlete before the student athlete enters
4 into an agency contract;

5 (2) enter into an agency contract with a stu-
6 dent athlete without providing the student athlete
7 with the disclosure document described in subsection
8 (b); or

9 (3) predate or postdate an agency contract.

10 (b) REQUIRED DISCLOSURE BY ATHLETE AGENTS
11 TO STUDENT ATHLETES.—

12 (1) IN GENERAL.— In conjunction with the en-
13 tering into of an agency contract, an athlete agent
14 shall provide to the student athlete, or, if the stu-
15 dent athlete is under the age of 18 to such student
16 athlete's parent or legal guardian, a disclosure docu-
17 ment that meets the requirements of this subsection.
18 Such disclosure document is separate from and in
19 addition to any disclosure which may be required
20 under State law.

21 (2) SIGNATURE OF STUDENT ATHLETE.—The
22 disclosure document must be signed by the student
23 athlete, or, if the student athlete is under the age of
24 18 by such student athlete's parent or legal guard-
25 ian, prior to entering into the agency contract.

1 (3) REQUIRED LANGUAGE.—The disclosure doc-
2 ument must contain, in close proximity to the signa-
3 ture of the student athlete, or, if the student athlete
4 is under the age of 18, the signature of such student
5 athlete’s parent or legal guardian, a conspicuous no-
6 tice in boldface type stating: **“Warning to Stu-
7 dent Athlete: If you agree orally or in
8 writing to be represented by an agent
9 now or in the future you may lose your
10 eligibility to compete as a student athlete
11 in your sport. Within 72 hours after en-
12 tering into this contract or before the
13 next athletic event in which you are eligi-
14 ble to participate, whichever occurs first,
15 both you and the agent by whom you are
16 agreeing to be represented must notify
17 the athletic director of the educational
18 institution at which you are enrolled, or
19 other individual responsible for athletic
20 programs at such educational institution,
21 that you have entered into an agency
22 contract.”.**

23 **SEC. 4. ENFORCEMENT.**

24 (a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A
25 violation of this Act shall be treated as a violation of a

1 rule defining an unfair or deceptive act or practice pre-
2 scribed under section 18(a)(1)(B) of the Federal Trade
3 Commission Act (15 U.S.C. 57a(a)(1)(B)).

4 (b) ACTIONS BY THE COMMISSION.—The Commis-
5 sion shall enforce this Act in the same manner, by the
6 same means, and with the same jurisdiction, powers, and
7 duties as though all applicable terms and provisions of the
8 Federal Trade Commission Act (15 U.S.C. 41 et seq.)
9 were incorporated into and made a part of this Act.

10 **SEC. 5. ACTIONS BY STATES.**

11 (a) IN GENERAL.—

12 (1) CIVIL ACTIONS.—In any case in which the
13 attorney general of a State has reason to believe
14 that an interest of the residents of that State has
15 been or is threatened or adversely affected by the
16 engagement of any athlete agent in a practice that
17 violates section 3 of this Act, the State may bring
18 a civil action on behalf of the residents of the State
19 in a district court of the United States of appro-
20 priate jurisdiction to—

21 (A) enjoin that practice;

22 (B) enforce compliance with this Act;

23 (C) obtain damage, restitution, or other
24 compensation on behalf of residents of the
25 State; or

1 (D) obtain such other relief as the court
2 may consider to be appropriate.

3 (2) NOTICE.—

4 (A) IN GENERAL.—Before filing an action
5 under paragraph (1), the attorney general of
6 the State involved shall provide to the
7 Commission—

8 (i) written notice of that action; and

9 (ii) a copy of the complaint for that
10 action.

11 (B) EXEMPTION.—Subparagraph (A) shall
12 not apply with respect to the filing of an action
13 by an attorney general of a State under this
14 subsection, if the attorney general determines
15 that it is not feasible to provide the notice de-
16 scribed in that subparagraph before filing of the
17 action. In such case, the attorney general of a
18 State shall provide notice and a copy of the
19 complaint to the Commission at the same time
20 as the attorney general files the action.

21 (b) INTERVENTION.—

22 (1) IN GENERAL.—On receiving notice under
23 subsection (a)(2), the Commission shall have the
24 right to intervene in the action that is the subject
25 of the notice.

1 (2) EFFECT OF INTERVENTION.—If the Com-
2 mission intervenes in an action under subsection (a),
3 it shall have the right—

4 (A) to be heard with respect to any matter
5 that arises in that action; and

6 (B) to file a petition for appeal.

7 (c) CONSTRUCTION.—For purposes of bringing any
8 civil action under subsection (a), nothing in this title shall
9 be construed to prevent an attorney general of a State
10 from exercising the powers conferred on the attorney gen-
11 eral by the laws of that State to—

12 (1) conduct investigations;

13 (2) administer oaths or affirmations; or

14 (3) compel the attendance of witnesses or the
15 production of documentary and other evidence.

16 (d) ACTIONS BY THE COMMISSION.—In any case in
17 which an action is instituted by or on behalf of the Com-
18 mission for a violation of section 3, no State may, during
19 the pendency of that action, institute an action under sub-
20 section (a) against any defendant named in the complaint
21 in that action—

22 (e) VENUE.—Any action brought under subsection
23 (a) may be brought in the district court of the United
24 States that meets applicable requirements relating to
25 venue under section 1391 of title 28, United States Code.

1 (f) SERVICE OF PROCESS.—In an action brought
2 under subsection (a), process may be served in any district
3 in which the defendant—

4 (1) is an inhabitant; or

5 (2) may be found.

6 **SEC. 6. PROTECTION OF EDUCATIONAL INSTITUTION.**

7 (a) NOTICE REQUIRED.—Within 72 hours after en-
8 tering into an agency contract or before the next athletic
9 event in which the student athlete may participate, which-
10 ever occurs first, the athlete agent and the student athlete
11 shall each inform the athletic director of the educational
12 institution at which the student athlete is enrolled, or
13 other individual responsible for athletic programs at such
14 educational institution, that the student athlete has en-
15 tered into an agency contract, and the athlete agent shall
16 provide the athletic director with notice in writing of such
17 a contract.

18 (b) CIVIL REMEDY.—

19 (1) IN GENERAL.—An educational institution
20 has a right of action against an athlete agent for
21 damages caused by a violation of this Act.

22 (2) DAMAGES.—Damages of an educational in-
23 stitution may include losses and expenses incurred
24 because, as a result of the conduct of the athlete
25 agent, the educational institution was injured by a

1 violation of this Act or was penalized, disqualified,
2 or suspended from participation in athletics by a na-
3 tional association for the promotion and regulation
4 of athletics, by an athletic conference, or by reason-
5 able self-imposed disciplinary action taken to miti-
6 gate actions likely to be imposed by such an associa-
7 tion or conference.

8 (3) COSTS AND ATTORNEYS FEES.—In an ac-
9 tion taken under this section, the court may award
10 to the prevailing party costs and reasonable attor-
11 neys fees.

12 (4) EFFECT ON OTHER RIGHTS, REMEDIES AND
13 DEFENSES.—This section does not restrict the
14 rights, remedies, or defenses of any person under
15 law or equity.

16 **SEC. 7. SENSE OF CONGRESS.**

17 It is the sense of Congress that States should enact
18 the Uniform Athlete Agents Act of 2000 drafted by the
19 National Conference of Commissioners on Uniform State
20 Laws, to protect student athletes and the integrity of ama-
21 teur sports from unscrupulous sports agents. In par-
22 ticular, it is the sense of Congress that States should enact
23 the provisions relating to the registration of sports agents,
24 the required form of contract, the right of the student ath-
25 lete to cancel an agency contract, the disclosure require-

1 ments relating to record maintenance, reporting, renewal,
2 notice, warning, and security, and the provisions for reci-
3 procity among the States.